

REMARKS

Reconsideration of the application in view of the above amendments and following remarks is respectfully requested.

Claims 4-9 and 60-65 are pending in the subject application. Claims 4, 5 and 8 have been amended. More specifically, the definition of R⁴ and R⁵ in claims 4 and 8 has been amended to enhance the clarity of these claims by the addition of the language "one of" prior to "R⁴ or R⁵ is". Applicants wish to thank the Examiner for suggesting this language in the Office Action dated November 21, 2007. In claim 5, the definition of R³ has been amended (to delete "H, alkyl") in order to expedite allowance of preferred embodiments of the present invention. No new matter has been added by the amendments. Therefore, claims 4-9 and 60-65, as amended herein, are now pending in the subject application.

It is noted in the Office Action at pages 1 and 4 that claims 6-7, 9, 62-63 and 65 are indicated as allowed. Claims 4, 5, 8, 60, 61 and 64 were rejected.

In the Office Action, claims 4, 8, 60 and 64 were rejected under 35 U.S.C. § 112, second paragraph, as indefinite. In particular, the recitation "R⁴ or R⁵ is ..., and the other is ..." was objected to as confusing. Claims 60 and 64 were rejected as depending from claims 4 and 8, respectively. This rejection of claims 4, 8, 60 and 64 is respectfully traversed.

As set forth above, claims 4 and 8 have been amended (and thus claims 60 and 64 which depend therefrom, respectively). The language added is described above and noted to be that as suggested by the Examiner in the Office Action. Accordingly, it is respectfully submitted that claims 4, 8, 60 and 64 are definite within the meaning of Section 112, second paragraph.

Therefore, Applicants believe that this rejection of claims 4, 8, 60 and 64 under 35 U.S.C. § 112, second paragraph, has been overcome. Reconsideration and withdrawal of the rejection are respectfully requested.

In the Office Action, claims 5 and 61 were rejected under 35 U.S.C. § 103(a) as unpatentable over Grant et al. (PCT Application Publication No. WO 01/12198 A2). It is asserted that based on Grant et al., one of ordinary skill in the art would have been motivated to prepare Applicants' compounds as set forth in claims 5 and 61. This rejection is respectfully traversed.

Applicants respectfully disagree with this rejection. Nevertheless, in order to expedite allowance of preferred embodiments, claim 5 (and thus claim 61 which depends therefrom) has been amended as set forth above. Amended claims 5 and 61 no longer include "H" or "alkyl" as a possible substituent at R³. Rather, the substituent selections recited for R³ of claims 5 and 61 are "alkoxy, Cl, CCl₃, NH₂, NHR or NRR' where R and R' independently are alkyl or acyl containing group".

At page 3 of the Office Action, Applicants' attention is directed to the compounds of Grant et al. represented by formula (II) disclosed at page 6 and the corresponding species compound 44 disclosed in Table IV at page 48 (whose structure is depicted in Example 1 at page 33). These compounds of Grant et al. have been carefully reviewed in view of the Examiner's comments at pages 3-4 of the Office Action. All of these compounds possess only H at the position equivalent to R³ of the compounds of Applicants' pending claims 5 and 61. As described in detail above, R³ of amended claims 5 and 61 does not include H, or even alkyl. The compounds of pending claims 5 and 61 are not structural homologs of the compounds of Grant et al. Given the structural differences between the compounds of the pending claims and the compounds of Grant et al., there would have been (at the time of Applicants' invention) no reasonable expectation that Applicants' claimed compounds would possess the activity desired by Grant et al. Therefore, one having ordinary skill in the art would not have been motivated to prepare the compounds of pending claims 5 and 61.

Applicants respectfully submit that the Patent Office has failed to establish a *prima facie* case for obviousness of amended claims 5 and 61 within the meaning of Section 103(a).

Therefore, Applicants believe that this rejection of claims 5 and 61 under 35 U.S.C. § 103(a) over Grant et al. has been overcome. Reconsideration and withdrawal of the rejection are respectfully requested.

Therefore, in light of the amendments and remarks set forth above, Applicants believe that all the Examiner's rejections have been overcome. Reconsideration and allowance of the pending claims (4-9 and 60-65, as amended herein) are respectfully requested. If there is any further matter requiring attention prior to allowance of the subject application, the Examiner is respectfully requested to contact the undersigned attorney (at 206-622-4900) to resolve the matter.

The Director is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC

A handwritten signature in black ink, appearing to read "Richard G. Sharkey", is written over a horizontal line.

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